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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/677,351

10/03/2003

Brent Sheldon

9-11054-12US

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7590

10/19/2004

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EXAMINER

STULTZ, JESSICA T

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/677,351

Applicant(s)

SHELDON, BRENT

Examiner

Jessica T Stultz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1003</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

**DETAILED ACTION*****Drawings***

The drawings are objected to because Figure 7A is missing. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-7 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Glass et al.

Regarding claim 1, Glass et al discloses a method of assembling eyewear comprising (Column 2, line 61-Column 3, line 17, wherein the eyeglasses are shown in Figures 1-2): providing a frame structure for the eyewear, the frame structure defining at least one opening (Column 2, line 61-Column 3, line 17, wherein the frame "50" has two openings, Figures 1-2): providing a lens unit including a lens and a rim element (Column 2, line 61-Column 3, line 17, and Column 4, lines 301-55, wherein the lens "10" is encircled by gasket "12", Figures 1-2 and 11), the rim element encircling the lens and having a dimension to be visible in a front view of the eyewear when the lens unit is attached to the frame structure (Shown in Figures 1-2 and 11, wherein the gasket "12" encircles the lens "10" and is visible in Figures 2); and removably attaching the lens unit to the frame structure to cover the opening (Abstract and Column 2, line 61-Column 3, line 17, wherein the lens "10" is removably attached to the frame "50", Figures 1-2).

Regarding claim 2, Glass et al further discloses selective replacement of the lens unit attached to the frame structure of the lens unit when changing properties of the eyewear is desirable (Abstract and Column 1, lines 63-67 and Column 2, line 61-Column 3, line 17, wherein the lenses are interchangeable based on the needs of the user).

Regarding claim 3, Glass et al further discloses providing a plurality of interchangeable lens units, the rim elements of the respective interchangeable lens units being different, and the respective interchangeable lens units being adapted to be removably attached to the opening of the frame structure for replacement of one another (Column 4, lines 10-55, wherein the different

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lens shapes are used with respective different peripheries and gaskets, Figures 8-10); and selecting one of the interchangeable lens units to replace the lens unit having been attached to the opening of the frame structure (Abstract and Column 1, lines 63-67 and Column 2, line 61-Column 3, line 17, wherein the lenses are interchangeable based on the needs of the user).

Regarding claim 9, Glass et al eyewear comprising (Column 2, line 61-Column 3, line 17, wherein the eyeglasses are shown in Figures 1-2): a frame structure for the eyewear defining at least one opening (Column 2, line 61-Column 3, line 17, wherein the frame “50” has two openings, Figures 1-2): a lens unit removably attached to the frame structure and covering the opening thereof, the lens unit including a lens and a rim element encircling the lens, (Column 2, line 61-Column 3, line 17, and Column 4, lines 301-55, wherein the removable lens “10” is encircled by gasket “12” and attached to frame “50”, Figures 1-2 and 11), the rim element having a dimension to be visible in a front view of the eyewear when the lens unit is attached to the frame structure (Shown in Figures 1-2 and 11, wherein the gasket “12” encircles the lens “10” and is visible in Figures 2); and a plurality of interchangeable lens units adapted for selective replacement of the lens unit attached to the frame structure (Abstract and Column 1, lines 63-67 and Column 2, line 61-Column 3, line 17, wherein the lenses are interchangeable based on the needs of the user).

Regarding claims 4-7 and 10, it is further inherent from Glass et al that the rim elements of the lens units comprise different materials, specifically metal, rubber, wood/foam or plastic, this being reasonably base upon the disclosures that the frames are made of metal, plastic, elastomers or combinations thereof and since the rim elements are attached to the frame and therefore would be made of the same material (Column 2, line 61-Column 3, line 8).

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Regarding claim 11, Glass et al further discloses that the rim elements of the respective interchangeable lens units are made in different colors (Column 4, lines 48-55, wherein the gaskets "12" are available in a variety of colors, figure 11).

Regarding claim 12, Glass et al further disclose the frame structure comprises a plurality of retaining elements defined in a spaced-apart relationship at an inner periphery of the opening for releasable retaining the rim elements of the respective interchangeable lens units (Column 3, lines 18-67, wherein the retaining elements are the ridges of the gasket receiving surface "79", Figure 6).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glass et al in view of Holland et al.

Regarding claim 8, Glass et al discloses a method of assembling eyeglasses as shown above, but does not specifically disclose that the rim element define an air venting passage to vent moisture when the eyewear is in use. Holland et al teaches of forming an air ventilation passage in eyeglasses with removable lenses for the purpose of increasing airflow and to reduce fogging (Column 5, lines 41-57, Figures 10). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made for the rim element to further include an air venting passage to vent moisture when the eyewear is in use since Holland et al

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teaches of forming a air ventilation passage in eyeglasses with removable lenses for the purpose of increasing air flow and to reduce fogging.

Regarding claim 13, Glass et al discloses eyewear comprising (Column 2, line 61-Column 3, line 17, wherein the eyeglasses are shown in Figures 1-2): a frame structure defining at pair of openings (Column 2, line 61-Column 3, line 17, wherein the frame "50" has two openings, Figures 1-2): a pair of lens units removably attached to the frame structure and covering the opening thereof, each of the lens unit including a lens and a rim element encircling the lens, (Column 2, line 61-Column 3, line 17, and Column 4, lines 301-55, wherein the removable lens "10" is encircled by gasket "12" and attached to frame "50", Figures 1-2 and 11), but does not specifically disclose that the eyewear permits air ventilation when in use. Holland et al teaches of forming an air ventilation passage in eyeglasses with removable lenses for the purpose of increasing airflow and to reduce fogging (Column 5, lines 41-57, Figures 10). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made for the eyewear to further permit air ventilations when in use since Holland et al teaches of forming a air ventilation passage in eyeglasses with removable lenses for the purpose of increasing air flow and to reduce fogging.

Regarding claims 14 and 15, Glass et al and Holland et al disclose and teach of eyewear as shown above and it is further inherent from Glass et al that the rim elements of the lens units to be made of a material other than a material of the lens and that the rim elements of the lens units comprise different materials, specifically metal, rubber, wood/foam or plastic, this being reasonably base upon the disclosures that the frames are made of metal, plastic, elastomers or combinations thereof and since the rim elements are attached to the frame and therefore would

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be made of the same material and the lens to be made of plastic or glass as is well known in the art of lenses (Column 2, line 61-Column 3, line 8).

Regarding claim 16, Glass et al and Holland et al disclose and teach of eyewear as shown above and Glass et al further discloses that the rim element of the lens units is dimensioned to be visibly distinguishable from both the lens and the frame structure (Shown in Figures 1-2 and 11, wherein the gasket "12" encircles the lens "10" and is visibly distinguished from the lens "10" and frame "50", Figures 1-2).

Regarding claim 17, Glass et al and Holland et al disclose and teach of eyewear as shown above, and Holland et al further teaches of forming a air ventilation passage in eyeglasses with removable lenses for the purpose of increasing air flow and to reduce fogging (Column 5, lines 41-57, Figures 10). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made for the rim element to further include an air venting passage to vent moisture when the eyewear is in use since Holland et al teaches of forming a air ventilation passage in eyeglasses with removable lenses for the purpose of increasing air flow and to reduce fogging.

Regarding claim 18, Glass et al and Holland et al disclose and teach of eyewear as shown above and Glass et al further discloses the frame structure comprises a plurality of retaining elements defined in a spaced-apart relationship at an inner periphery of the opening for releasable retaining the rim elements of the respective interchangeable lens units (Column 3, lines 18-67, wherein the retaining elements are the ridges of the gasket receiving surface "79", Figure 6).



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Regarding claim 19, Glass et al and Holland et al disclose and teach of eyewear as shown above and Glass et al further discloses that the rim elements of the lens units comprises at least one retaining element projecting outwardly from an outer periphery of the rim elements for a releasable attachment to the frame structure (Column 4, lines 10-55, wherein the outer surface of the gasket "12" has a rounded projection which attaches to the frame "50" as shown in Figures 6 and 12).

Regarding claims 20, Glass et al and Holland et al disclose and teach of eyewear as shown above and Glass et al further discloses that the frame structure comprises at least one recess defined at an inner periphery of the respective openings for accommodating the retaining element of the respective lens units (Column 3, line 9-Column 4, line 34, wherein the recess in the frame "50" is shown in Figure 6 as the receiving surface "79").

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cheong, Angermann et al, and Aspesi are cited as having some similar structure to the claimed invention.

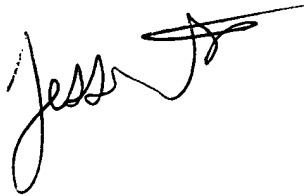
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica T Stultz whose telephone number is (571) 272-2339. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jessica Stultz  
Patent Examiner  
AU 2873  
October 14, 2004



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PRIMARY EXAMINER

